

Senate Bill 312 (2019) – Paid Leave

NRS 608.0197 Employer required to provide paid leave; use of paid leave; Labor Commissioner to prepare and post bulletin; maintenance and inspection of records; other rights, remedies, procedures and benefits; exceptions. [Effective January 1, 2020.]

1. Except as otherwise provided in this section, every employer in private employment shall provide paid leave to each employee of the employer as follows:

- (a) An employee is entitled to at least 0.01923 hours of paid leave for each hour of work performed.
- (b) An employee may, as determined by the employer, obtain paid leave by:
 - (1) Receiving on the first day of each benefit year the total number of hours of paid leave that the employee is entitled to accrue in a benefit year pursuant to paragraph (a); or
 - (2) Accruing over the course of a benefit year the total number of hours of paid leave that the employee is entitled to accrue in a benefit year pursuant to paragraph (a).
- (c) Paid leave accrued pursuant to subparagraph (2) of paragraph (b) may carry over for each employee between his or her benefit years of employment, except an employer may limit the amount of paid leave for each employee carried over to a maximum of 40 hours per benefit year.
- (d) Except as otherwise provided in paragraph (i), an employer shall:
 - (1) Compensate an employee for the paid leave available for use by that employee at the rate of pay at which the employee is compensated at the time such leave is taken, as calculated pursuant to paragraph (e); and
 - (2) Pay such compensation on the same payday as the hours taken are normally paid.
- (e) For the purposes of determining the rate of pay at which an employee is compensated pursuant to paragraph (d), the compensation rate for an employee who is paid by:
 - (1) Salary, commission, piece rate or a method other than hourly wage must:
 - (I) Be calculated by dividing the total wages of the employee paid for the immediately preceding 90 days by the number of hours worked during that period;
 - (II) Except as otherwise provided in sub-subparagraph (III), include any bonuses agreed upon and earned by the employee; and
 - (III) Not include any bonuses awarded at the sole discretion of the employer, overtime pay, additional pay for performing hazardous duties, holiday pay or tips earned by the employee.
 - (2) Hourly wage must be calculated by the hourly rate the employee is paid by the employer.
- (f) An employer may limit the amount of paid leave an employee uses to 40 hours per benefit year.
- (g) An employer may set a minimum increment of paid leave, not to exceed 4 hours, that an employee may use at any one time.
- (h) An employer shall provide to each employee on each payday an accounting of the hours of paid leave available for use by that employee. An employer may use the system that the employer uses to pay its employees to provide the accounting of the hours of paid leave available for use by the employee.
- (i) An employer may, but is not required to, compensate an employee for any unused paid leave available for use by that employee upon separation from employment, except if the employee is rehired by the employer within 90 days after separation from that employer and the separation from employment was not due to the employee voluntarily leaving his or her employment, any previously unused paid leave hours available for use by that employee must be reinstated.

2. An employee in private employment may use paid leave available for use by that employee as follows:

- (a) An employer shall allow an employee to use paid leave beginning on the 90th calendar day of his or her employment.
- (b) An employee may use paid leave available for use by that employee without providing a reason to his or her employer for such use.
- (c) An employee shall, as soon as practicable, give notice to his or her employer to use the paid leave available for use by that employee.

3. An employer shall not:

- (a) Deny an employee the right to use paid leave available for use by that employee in accordance with the conditions of this section;
- (b) Require an employee to find a replacement worker as a condition of using paid leave available for use by that employee; or
- (c) Retaliate against an employee for using paid leave available for use by that employee.

4. The Labor Commissioner shall prepare a bulletin which clearly sets forth the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor

Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be included in any printed abstract posted by the employer pursuant to [NRS 608.013](#).

5. An employer shall maintain a record of the receipt or accrual and use of paid leave pursuant to this section for each employee for a 1-year period following the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner.

6. The provisions of this section do not:

- (a) Limit or abridge any other rights, remedies or procedures available under the law.
- (b) Negate any other rights, remedies or procedures available to an aggrieved party.
- (c) Prohibit, preempt or discourage any contract or other agreement that provides a more generous paid leave benefit or paid time off benefit.

7. For the first 2 years of operation, an employer is not required to comply with the provisions of this section.

8. This section does not apply to:

(a) An employer who, pursuant to a contract, policy, collective bargaining agreement or other agreement, provides employees with a policy for paid leave or a policy for paid time off to all scheduled employees at a rate of at least 0.01923 hours of paid leave per hour of work performed; and

(b) Temporary, seasonal or on-call employees.

9. As used in this section:

(a) "Benefit year" means a 365-day period used by an employer when calculating the accrual of paid leave.

(b) "Employer" means a private employer who has 50 or more employees in private employment in this State.

(Added to NRS by [2019, 3752](#), effective January 1, 2020)

NRS 608.0198 Employee entitled to leave related to domestic violence; uses of leave; prohibited acts; required documentation; Labor Commissioner to prepare bulletin; posting; maintenance of records; other rights, remedies and agreements unimpaired.

1. An employee who has been employed by an employer for at least 90 days and who is a victim of an act which constitutes domestic violence, or whose family or household member is a victim of an act which constitutes domestic violence, and the employee is not the alleged perpetrator, is entitled to not more than 160 hours of leave in one 12-month period. Hours of leave provided pursuant to this subsection:

(a) May be paid or unpaid by the employer;

(b) Must be used within the 12 months immediately following the date on which the act which constitutes domestic violence occurred;

(c) May be used consecutively or intermittently; and

(d) If used for a reason for which leave may also be taken pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., must be deducted from the amount of leave the employee is entitled to take pursuant to this section and from the amount of leave the employee is entitled to take pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

2. An employee may use the hours of leave pursuant to subsection 1 as follows:

(a) An employee may use the hours of leave only:

(1) For the diagnosis, care or treatment of a health condition related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

(2) To obtain counseling or assistance related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

(3) To participate in any court proceedings related to an act which constitutes domestic violence committed against the employee or family or household member of the employee; or

(4) To establish a safety plan, including, without limitation, any action to increase the safety of the employee or the family or household member of the employee from a future act which constitutes domestic violence.

(b) After taking any hours of leave upon the occurrence of the act which constitutes domestic violence, an employee shall give not less than 48 hours' advance notice to his or her employer of the need to use additional hours of leave for any purpose listed in paragraph (a).

3. An employer shall not:

(a) Deny an employee the right to use hours of leave in accordance with the conditions of this section;

(b) Require an employee to find a replacement worker as a condition of using hours of leave; or

(c) Retaliate against an employee for using hours of leave.

4. The employer of an employee who takes hours of leave pursuant to this section may require the employee to provide to the employer documentation that confirms or supports the reason the employee provided for requesting

leave. Such documentation may include, without limitation, a police report, a copy of an application for an order for protection, an affidavit from an organization which provides services to victims of domestic violence or documentation from a physician. Any documentation provided to an employer pursuant to this subsection is confidential and must be retained by the employer in a manner consistent with the requirements of the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

5. The Labor Commissioner shall prepare a bulletin which clearly sets forth the right to the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be included in any printed abstract posted by the employer pursuant to [NRS 608.013](#).

6. An employer shall maintain a record of the hours of leave taken pursuant to this section for each employee for a 2-year period following the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner. The employer shall exclude the names of the employees from the records, unless a request for a record is for the purpose of an investigation.

7. The provisions of this section do not:

- (a) Limit or abridge any other rights, remedies or procedures available under the law.
- (b) Negate any other rights, remedies or procedures available to an aggrieved party.
- (c) Prohibit, preempt or discourage any contract or other agreement that provides a more generous leave benefit or paid leave benefit.

8. As used in this section:

- (a) "Domestic violence" has the meaning ascribed to it in [NRS 33.018](#).
- (b) "Family or household member" means a:
 - (1) Spouse;
 - (2) Domestic partner;
 - (3) Minor child; or
 - (4) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence.

(Added to NRS by [2017, 3176](#))